

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERESA A. THOMPSON,	:	
Individually and as Administratrix	:	
of the Estate of	:	
Robert W. Thompson,	:	CIVIL ACTION NO.
Deceased,	:	
Plaintiff	:	
	:	
v.	:	ELECTRONICALLY FILED
	:	
D&H DISTRIBUTING	:	
COMPANY,	:	
Defendant	:	

NOTICE OF REMOVAL OF CIVIL ACTION

TO: UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant D&H Distributing Company ("D&H") hereby removes the above-captioned action from the Court of Common Pleas of Dauphin County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania. In support of this removal, D&H avers as follows:

I. **Relevant Factual and Procedural Background**

1. On or about January 23, 2013, Plaintiff Teresa A. Thompson ("Plaintiff"), individually and as the Administratrix of the Estate of her late husband Robert W. Thompson, initiated a civil action against D&H by filing a Writ of Summons. A true and correct copy of the Writ of Summons is

attached hereto as Exhibit "A."

2. On March 20, 2013, Plaintiff propounded pre-complaint discovery upon D&H. D&H responded to the pre-complaint discovery on April 18, 2013.

3. On or about September 13, 2013, Plaintiff filed a Complaint alleging causes of action for promissory estoppel/detrimental reliance, fraud, breach of contract, negligent misrepresentation and violations of the the federal Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001 *et seq.* A true and correct copy of the Complaint is attached hereto as Exhibit "B."

II. Grounds for Removal

4. Any claim under and relating to employment benefit plans, and the denial or recovery of benefits thereunder, is governed by ERISA.

5. All of Plaintiff's claims are governed by ERISA.

6. Because the claims set forth in the Complaint arise under and are governed by federal law, the Complaint raises a federal question.

7. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 since Plaintiff's claims arise under the laws of the United States.

8. D&H is entitled to remove Plaintiff's action to this Court in

accordance with 28 U.S.C. § 1441(a) because this Court has original jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1331.

9. D&H files with this Notice of Removal a copy of all process and pleadings served upon it in the state court action prior to the filing of this Notice of Removal (see Exhibits A & B).

10. D&H is providing a copy of this Notice of Removal to Loren A. Schrum, Esq., counsel of record for Plaintiff. In addition, D&H will file a date stamped copy of this Notice of Removal with the Prothonotary of the Court of Common Pleas of Dauphin County, Pennsylvania.

WHEREFORE, Defendant D&H Distributing Company removes this action from the Court of Common Pleas of Dauphin County to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. § 1441, et. seq.

McNEES WALLACE & NURICK LLC

By /s/ Dana W. Chilson

James P. DeAngelo

PA I.D. No. 62377

Dana W. Chilson

PA I.D. No. 208718

McNees Wallace & Nurick LLC

100 Pine Street, P.O. Box 1166

Harrisburg, PA 17108-1166

(717) 232-8000 (telephone)

(717) 237-5300 (facsimile)

Dated: September 30, 2013

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this date, a true and correct copy of the foregoing *Notice of Removal* was served upon the following by First Class Mail, postage pre-paid:

Loren A. Schrum, Esq.
Reilly, Wolfson, Sheffey, Schrum & Lundberg LLP
1601 Cornwall Road
Lebanon, PA 17042-7406

Counsel for Plaintiff

/s/Dana W. Chilson
Dana W. Chilson

Counsel for Defendant

Dated: September 30, 2013